

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

In re:

SPECIALTY RETAIL SHOPS HOLDING
CORP., *et al.*,¹

Debtors.

Chapter 11

Case No. 19-80064 (TLS)

(Jointly Administered)

NOTICE OF APPEAL

CGP Canadian, LTD.; CGP Clifton, LTD.; CGP Comanche, LTD.; CGP Cotulla, LTD.; CGP Jacksboro, LTD.; CGP Orofino, LLC; CGP Prosser, LLC; CGP Seymour, LTD.; and GGSK Tulia, LTD. (“CGP Landlords”), by and through their undersigned counsel, hereby appeal to the United States District Court for the District of Nebraska pursuant to 28 U.S.C. § 158(b) from the *Order Granting Motion of Defendants Pursuant to Confirmation Order to Determine Whether Causes of Action are Property of the Debtors’ Estates* filed by Sun Capital Partners Group, Inc., Sun Capital Partners, IV, LP and Sun Capital Management, LLC [Doc. 1966 – Text only order]; PDF File With Audio File Attachment of Hearing, including the Court’s oral findings of fact and conclusions of law [Doc 1968] and the *Order*, denying CGP Landlords’ Motion to Reconsider [Doc 2050]. A copy of the aforementioned documents are attached hereto as Exhibit 1.

The parties to the Order appealed herein are the following:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Specialty Retail Shops Holding Corp. (0029); Pamida Stores Operating Co., LLC (6157); Pamida Transportation, LLC (4219); Penn-Daniels, LLC (0040); Place’s Associates’ Expansion, LLC (7526); Retained R/E SPE, LLC (6670); Shopko Finance, LLC (1152); Shopko Gift Card Co., LLC (211); Shopko Holding (6346); ShopKo Properties, LLC (0865); ShopKo Stores Operating Co., LLC (6109); SVS Trucking, LLC (0592). The location of the Debtors’ service address is: 700 Pilgrim Way, Green Bay, Wisconsin 54304.

Attorneys for Sun Capital Partners Group, Inc.,
Sun Capital Partners, IV, LP and Sun Capital Management, LLC

Andrew J. Gallo
Morgan, Lewis & Bockius, LLP
One Federal Street
Boston, Ma 02110-1726
(617) 341-7700
Andrew.gallo@morganlewis.com

Attorneys for KLA-Shopko, LLC

Stephen J. Kastenberg
Courtney L. Yeakal
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
(215) 864-8122
kastenberg@ballardspahr.com
yeakalc@ballardspahr.com

Attorneys for CGP Landlords

Lee R. Benton
Samuel C. Stephens
Benton & Centeno, LLP
2019 Third Avenue North
Birmingham, Alabama 35203
(205) 278-8000
lbenton@bcattys.com
sstephens@bcattys.com

Attorney for US Trustee

Jerry L. Jensen
Acting Assistant U.S. Trustee
U.S. Trustee's Office
111 S. 18th Plaza, Suite 1148
Omaha, Nebraska 68102
(402) 221-4302
Jerry.l.jensen@usdoj.gov

Attorneys for Debtor

Document Page 3 of 9

James J. Niemeier
Michael T. Eversden
Lauren R. Goodman
McGrath North Mullin & Kratz, P.C. LLO
First National Tower, Suite 3700
1601 Dodge Street
Omaha, Nebraska 68102
(402)341-3070
jniemeier@mcgrathnorth.com
meversden@mcgrathnorth.com
lgoodman@mcgrathnorth.com

and

James H.M. Sprayregen, P.C.
Patrick J. Nash, Jr., P.C.
Travis M. Bayer
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
300 North LaSalle
Chicago, Illinois 60654
(312) 862-2200
James.sprayregen@kirkland.com
Patrick.nash@kirkland.com
Travis.bayer@kirkland.com

and

Steven Serajeddini
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
601 Lexington Avenue
New York, New York 10022
(212)446-4800
Steven.serajeddini@kirkland.com

Although a bankruptcy appellate panel is available in this judicial district, pursuant to 28 U.S.C. § 158(c)(1), CGP Landlords elect to have the appeal heard by the United States District Court rather than the Bankruptcy Appellate Panel for the Eighth Circuit Court of Appeals.

Dated: November 18, 2019.

/s/Lee R. Benton

Lee R. Benton (8421E63L AL)
BENTON & CENTENO, L.L.P.
2019 Third Avenue North
Birmingham, Alabama 35203
Telephone: (205)278-8000
Facsimile: (205) 278-8005
Email: lbenton@bcattys.com
COUNSEL FOR CGP LANDLORDS

/s/Samuel C. Stephens

Samuel C. Stephens (0400X11T AL)
BENTON & CENTENO, L.L.P.
2019 Third Avenue North
Birmingham, Alabama 35203
Telephone: (205)278-8000
Facsimile: (205) 278-8005
Email: sstephens@bcattys.com
COUNSEL FOR CGP LANDLORDS

EXHIBIT 1

Full docket text for document 1966:

Order Granting Motion of Defendants Pursuant to Confirmation Order to Determine Whether Causes of Action are Property of the Debtors' Estates filed by Sun Capital Partners Group, Inc., Sun Capital Partners, IV, LP and Sun Capital Management, LLC (Related Doc # 1690). Hearing held October 1, 2019. Travis Bayer appeared for Debtor. Andrew Gallow appeared for Sun Capital Partners Group, Inc., Sun Capital Partners, IV, LP and Sun Capital Management, LLC. Lee Benton appeared for CGP Canadian, LTD; GGSK Tulia, LTD; CGP Seymour, LTD; CGP Orofino, LLC; CGP Comanche, LTD; CGP Jacksboro, LTD; CGP Cotulla, LTD; CGP Prosser, LLC; and CGP Clifton, LTD. For the reasons stated on the record, the motion is granted. Movant is responsible for giving notice to parties in interest as required by rule or statute. ORDERED by Judge Thomas L. Saladino. (Text only order) (dkk)

PACER Service Center			
Transaction Receipt			
11/18/2019 08:25:16			
PACER Login:	asb0400x11t	Client Code:	
Description:	History/Documents	Search Criteria:	19-80064-TLS Type: History
Billable Pages:	1	Cost:	0.10

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEBRASKA

PDF FILE WITH AUDIO FILE ATTACHMENT

19-80064

Specialty Retail Shops Holding Corp.

Case Type :	BK
Case Number :	19-80064
Case Title :	Specialty Retail Shops Holding Corp.
Audio Date\Time:	10/1/2019 8:55:37 AM
Audio File Name :	BK19-80064_20191001-085537.mp3
Audio File Size :	15269 KB
Audio Run Time :	[01:03:37] (hh:mm:ss)

Help using this file:

An audio file is embedded as an attachment in this PDF document. To listen to the file, click the Attachments tab or the Paper Clip icon. Select the Audio File and click Open.

MPEG Layer-3 audio coding technology from Fraunhofer IIS and Thomson.

This digital recording is a copy of a court proceeding and is provided as a convenience to the public. In accordance with 28 U.S.C. § 753 (b) "[n]o transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record."

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	
)	CASE NO. BK19-80064
SPECIALTY RETAIL SHOPS)	
HOLDING CORP.,)	CHAPTER 11
)	
Debtor(s).)	

ORDER

This matter is before the court on the motion to reconsider by creditors CGP Canadian, Ltd.; CGP Clifton, Ltd.; CGP Comanche, Ltd.; CGP Cotulla, Ltd.; CGP Jacksboro, Ltd.; CGP Orofino, LLC; CGP Prosser, LLC; CGP Seymour, Ltd.; and GGSK Tulia, LTD. (Fil. No. 2005); the supplement to the motion to reconsider (Fil. No. 2020), and objections by KLA-Shopko, LLC; Sun Capital Management, LLC; Sun Capital Partners Group, Inc.; and Sun Capital Partners, IV, LP (Fil. No. 2037) and the debtors (Fil. Nos. 2038 and 2040). Michael T. Eversden, James J. Niemeier, Lauren R. Goodman, Steven Serajeddini, James H.M. Sprayregen, Patrick J. Nash, Jr., and Travis M. Bayer represent the debtors, Andrew J. Gallo and Stephen J. Kastenbergh represent the Sun Capital entities, and Lee R. Benton and Samuel C. Stephens represent the movants.

The motion is denied.

On October 1, 2019, this court granted the Motion of Defendants Pursuant to Confirmation Order to Determine Whether Causes of Action are Property of the Debtors' Estates and determined that the moving landlords' causes of action in a Florida lawsuit against the Sun Capital entities belonged to the bankruptcy estate and were released as part of a settlement between the estate and Sun Capital.

Thereafter, the movants amended their complaint in the Florida lawsuit to include allegations that Sun Capital's actions were intentionally directed at the movants and caused injury unique to them. These amended allegations are based on newly discovered information from an individual who worked for Shopko's real estate division and indicate Sun Capital specifically instructed Shopko to make misrepresentations to the movants concerning the development of store sites for Shopko.

While the new information contained in the amended complaint adds detail to the original allegations, it does not shift those claims from the category of derivative of injury to the debtor – which the movants do not have standing to pursue – to the category of direct injury to the movants. Sun Capital's actions were thoroughly investigated and reviewed by a special committee and resulted in a sizable settlement for the estate. Nothing in the amended Florida complaint removes the moving landlords' allegations from the penumbra of that settlement. Accordingly,

IT IS ORDERED: The motion and supplement to the motion to reconsider by creditors CGP Canadian, Ltd.; CGP Clifton, Ltd.; CGP Comanche, Ltd.; CGP Cotulla, Ltd.; CGP Jacksboro, Ltd.;

CGP Orofino, LLC; CGP Prosser, LLC; CGP Seymour, Ltd.; and GGSK Tulia, LTD. (Fil. Nos. 2005 and 2020) are denied.

DATED: November 6, 2019.

BY THE COURT:

/s/Thomas L. Saladino
Chief Judge

Notice given by the Court to:

*Lee R. Benton
*Samuel C. Stephens
Michael T. Eversden
James J. Niemeier
Lauren R. Goodman
Steven Serajeddini
James H.M. Sprayregen
Patrick J. Nash, Jr.
Travis M. Bayer
Andrew J. Gallo
Stephen J. Kastenberg
United States Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.